



THE USE OF FORCED CRIMINALITY: VICTIMS HIDDEN BEHIND THE CRIME

Methods used by human traffickers continue to evolve, as does the understanding of this crime among law enforcement and anti-trafficking activists. One distinct, yet often under-identified, characteristic of human trafficking is forced criminality. Traffickers may force adults and children to commit crimes in the course of their victimization, including theft, illicit drug production and transport, prostitution, terrorism, and murder. For example, in Mexico, organized criminal groups have coerced children and migrants to work as assassins and in the production, transportation, and sale of drugs. In November 2013, police arrested six adult Roma accused of forcing their children to commit burglaries in Paris and its suburbs. The victims were reportedly physically beaten for failure to deliver a daily quota of stolen goods. In Afghanistan, insurgent groups force older Afghan children to serve as suicide bombers. Non-state militant groups in Pakistan force children—some as young as nine years old—to serve as suicide bombers in both Pakistan and Afghanistan. Children and men, primarily from Vietnam and China, have been forced to work on cannabis farms in the United Kingdom and Denmark through the use of verbal and physical threats and intimidation.

Victims of trafficking should not be held liable for their involvement in unlawful activities that are a direct consequence of their victimization. Trafficked individuals who are forced to commit a crime are commonly mistaken for criminals—rather than being identified as victims—and therefore treated as such by law enforcement and judicial officials. Many victims of trafficking remain undetected among those who have committed crimes because of a lack of proper victim identification and screening. One example in the United States involves victims of human trafficking who are forced to commit commercial sex acts, and are then prosecuted by state or local officials for prostitution or prostitution-related activity. Many states, including New York, have passed laws to allow trafficking victims to overturn or vacate these convictions where criminal activity was committed as part of the trafficking situation. In 2009, three Vietnamese children were arrested for working on cannabis farms in the United Kingdom, convicted for drug offenses, and sentenced to imprisonment. An appellate court, however, overturned the convictions in 2013, holding that the children were victims of trafficking. This case reflects a growing awareness that victims of human trafficking involved in forced criminality should be shielded from prosecution. It also demonstrates the difficulties that law enforcement and judicial officials face when combating crimes and enforcing the law.

It is important that governments develop and implement policies to identify trafficking victims who are forced to participate in criminal activity in the course of their victimization, and provide them with appropriate protective services. In addition to general awareness training on human trafficking, training law enforcement and judicial officials about the principles of non-punishment and non-prosecution of victims is key to increasing the likelihood that individuals will be properly identified by the authorities, and thereby secure access to justice and protection.